

REMARKS

The Official Action dated August 11, 2005, has been carefully considered. A Notice of Appeal was filed for this application on November 11, 2005. Consideration of the changes and remarks presented herein and reconsideration of the rejections are respectfully requested. Claim 1 has been amended. Claims 13-23 have been added. It is believed that these changes do not involve any introduction of new matter, and thereby entry is believed to be in order and is respectfully requested. Claims 1, 7, 9-11 and 13-23 remain in the application for consideration.

In the Official Action, claims 1, 7 and 9-11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Baginski et al (U.S. Patent No. 4,652,392) in view of Inamorato (U.S. Patent No. 4,252,664). The Examiner asserts that Baginski et al disclose a granular detergent composition having a controlled suds pattern having (a) suds suppressing amount of a stable suds controlling component and (b) a sudsing detergent component, like an anionic detergent.

The Examiner does note that Baginski et al do not teach the incorporation of a foaming component having an effervescent granule and a surface active component. However, the Examiner contends that Inamorato disclose granular detergent compositions suitable for use in clothes-washing machines having (1) primary granules of one composition and (2) effervescent granules containing a binder, an acid, and a carbonate reactive with the acid. The Examiner contends that it would have been obvious to one of ordinary skill in the art to incorporate the granular detergent composition having nonionic surfactant and effervescent granules of Inamorato into the granular detergent composition of Baginski because Baginski discusses additional materials commonly found in laundering and cleaning compositions.

However, as will be set forth in detail below, it is submitted that the controlled foaming systems as defined by claims 1, 7 and 9-11 are nonobvious and patentably distinguishable over

Baginski et al in view of Inamorato. Accordingly, this rejection is traversed and reconsideration is respectfully requested.

Independent claim 1, from which claims 7, 9-11 and 13-24 depend, recites a controlled foaming system adapted for use in detergent compositions. The foaming system includes a foaming component capable of providing foaming or sudsing without agitation and a delayed-release foam suppressing component. The foaming component includes an effervescent granule and at least one surface active component. The effervescent granule includes an acid source and carbonate and/or bicarbonate. The carbonate and/or bicarbonate have an amorphous structure. The foaming component produces, upon contact with water, gas bubbles having an average bubble particle size of about 400 microns or less. The surface active component includes a polyhydroxy fatty acid amide, condensation product of aliphatic alcohol with from about 1 to about 15 moles of alkylene oxide, or a mixture thereof. The delayed-release foam suppressing component includes a silicone foam suppressing agent which is releasably incorporated in a carrier, thereby delaying the release of said silicone foam suppressing agent. The silicone foam suppressing agent has an average droplet diameter of from about 1 to about 50 microns. The carrier is water-soluble or water dispersible, substantially non-surface active, detergent-impermeable, and non-hygroscopic. The foam suppressing component is in the form of irregularly shaped flakes having a minimum dimension of not less than about 0.05 cm and a maximum dimension at least about 20% greater than the minimum dimension. The flakes have a thickness from 0.05 cm to 0.15 cm.

Baginski et al disclose granular detergent compositions having an effective suds controlling agent including a suds-controlling silicone material (abstract). While Inamorato discloses a granular detergent composition containing effervescing granules (abstract). The

effervescing granules in Inamorato provide a gas-producing agent to give good effervescent properties (col. 1, lines 57-68 - col. 2, lines 1-3).

Baginski et al fail to teach or suggest a foaming system as recited in independent claim 1. Particularly, Baginski et al fail to suggest including an effervescent granule (sudsing component). Although, Baginski et al do describe that additional laundry components can be included, the intent of the disclosure of Baginski et al is the controlled foaming of the detergent. Thus, Baginski et al teaches away from the inclusion of additional sudsing components. The combination of Baginski et al with Inamorato does not overcome this problem.

It is well settled that the question of obviousness under 35 U.S.C. § 103 is not what the person skilled in the art could have done but rather would have been obvious for such a person to do. *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.* 1 U.S.P.Q.2d 1081, (Fed. Cir. 1986). Inamorato fails to suggest adding the disclosed effervescent granules to a detergent composition containing a sudsing control agent, such as a silicone material. In fact, Inamorato teaches away from adding such a sudsing control agent because the Inamorato disclosure focuses on using sudsing agents such as effervescent granules. There is simply no suggestion or motivation to combine the teachings of Inamorato with Baginski et al because the purposes of the respective disclosures teach away from one another. One skilled in the art would not look to a reference, such as Inamorato, disclosing the use of a sudsing agent to combine it with a reference directed to controlling sudsing (Baginski et al). As such, Applicants contend that Baginski et al in combination with Inamorato do not support a rejection of claims 1, 7 and 9-11 under 35 U.S.C. § 103. Applicants therefore submit that the 35 U.S.C. § 103 rejection of the presently claimed foaming systems of claims 1, 7 and 9-11 over Baginski et al in view of Inamorato has been overcome. Reconsideration is respectfully requested.

Therefore, Baginski et al fail to suggest or motivate one to use the granular detergent compositions having an effective suds controlling agent in combination with foam producing effervescent granules of Inamorato. Accordingly, Applicants respectfully request reconsideration and allowance of claims 1, 7 and 9-11.

It is believed that the above amendments and remarks represent a complete response to the rejection under 35 U.S.C. § 103, and as such, place the present application having claims 1, 7, 9-11 and 13-23 in condition for allowance. Reconsideration and an early allowance are requested.

Respectfully submitted,



Clayton L. Kuhnell
Reg. No. 48,691
Attorney for Applicants
DINSMORE & SHOHL LLP
1900 Chemed Center
255 E. Fifth Street
Cincinnati, Ohio 45202
(513) 977-8377